

DEPARTMENT OF CORPORATIONS
California's Investment and Financing Authority

Preston DuFauchard
California Corporations Commissioner
Sacramento, California



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**NOTICE OF RECENT CALIFORNIA LAW CHANGES DESIGNED TO
PROTECT MILITARY MEMBERS AND THEIR FAMILIES**

This notice provides a summary of recent California legislation signed by the Governor to help protect military members and their families from unlawful activities in connection with certain loans and financial services provided by persons licensed under laws administered by the Department of Corporations.

The Department of Corporations expects licensees to understand and comply with these new laws, as it will vigorously enforce them to protect members of the military and their families from unlawful activities.

ASSEMBLY BILL 7

Effective *October 1, 2007*, Assembly Bill 7 (Chapter 358, Statutes of 2007) amends the California Deferred Deposit Transaction Law and the California Finance Lenders Law requiring payday lenders and finance lenders making loans to consumers, as specified, to comply with new federal consumer protections added by Section 670 of the John Warner National Defense Authorization Act for Fiscal Year 2007 (Public law 109-364), Section 987 of Title 10 of the United States Code, and Section 232 of Title 32 of the Code of Federal Regulations. This bill also clarifies that a failure to market or extend consumer loans to borrowers covered by this federal law does not violate state law designed to protect military members from discrimination in the provision of financial products.

In general, the federal law:

1. Defines "consumer credit" to include payday loans, vehicle or title loans, and tax refund anticipation loans (loans), as specified; defines "covered borrower" to include military members or their dependents (covered borrowers), as specified; and defines "creditor" as any person engaged in the business of extending consumer credit (lender), as specified.

♦ Securities ♦ Franchises ♦ Off-Exchange Commodities ♦ Investment and Financial Services ♦
♦ Independent Escrows ♦ Consumer and Commercial Finance Lending ♦ Residential Mortgage Lending ♦

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2. Requires a lender extending loans to covered borrowers, as defined, to do all of the following as specified more fully in the federal law: 1) limit military annual percentage rates of the loans to no greater than 36%; 2) disclose information regarding rates and payment obligations to covered borrowers; and 3) identify whether loan applicants are covered borrowers.
3. Prohibits a lender from engaging in any of the following practices, as specified more fully in federal law, in connection with these loans:
 - Roll over (e.g., renew, repay or refinance) current loans of covered borrowers with proceeds of other loans made to those same borrowers.
 - Require covered borrowers to waive federal or state legal rights afforded to them including any provision of the Service Members Civil Relief Act.
 - Require covered borrowers to submit to arbitration or to comply with onerous legal notice provisions.
 - Demand that covered borrowers provide unreasonable notice to maintain a legal action.
 - Use a check or other deposit method or access to a financial account, or title to a vehicle, as security for loans to covered borrowers.
 - Require covered borrowers to establish repayment allotments as a condition to obtaining loans.
 - Prohibit covered borrowers from prepaying loans, or charge prepayment penalties.

NOTE: The above is intended only as a summary of the new federal provisions. Thus, licensees operating under the California Deferred Deposit Transaction Law and the California Finance Lenders Law should review the provisions of Financial Code Sections 22345 and 23038 as added by Assembly Bill 7, together with the federal laws that are expressly referenced in the bill. Assembly Bill 7 is available to review at the Legislative Counsel's web page at www.leginfo.ca.gov, and information concerning the federal regulations is available on the Department of Defense webpage at www.defenselink.mil

Questions concerning the new federal law and regulations can be directed to Marcus Beauregard of the Department of Defense, State Liaison Office, at (703) 588-0877.

ASSEMBLY BILL 1528

Effective *January 1, 2008*, Assembly Bill 1528 (Chapter 363, Statutes of 2007) amends the Military and Veterans Code to prohibit any person or entity licensed under the Business and Professions Code, Corporations Code, Financial Code, or Insurance Code, from marketing financial services or products to a service member, former service member, or spouse of a service member or former service member, as specified, in a misleading or deceptive manner suggesting any of the following:

- That the person or entity marketing the financial service or product is acting on behalf of one or more branches of the United States military or the United States Department of Veterans Affairs; or
- That the person or entity marketing the financial service or product is an affiliate of one or more branches of the United State military or the United States Department of Veterans Affairs; or
- That the financial service or product is being offered on behalf of one or more branches of the United States military or the United States Department of Veterans Affairs.

This bill also provides that if a person who violates this provision is licensed under any state licensing law, a violation of this provision is deemed a violation of the law under which that person is licensed.

Licensees operating under the Corporations Code (i.e., securities broker-dealers and investment advisers), and licensees operating under the Financial Code (i.e., payday lenders, finance lenders, residential mortgage lenders, escrow agents, check sellers, bill payers or proraters) may review a copy of Assembly Bill 1528 available at www.leginfo.ca.gov.

Licensees should also review other obligations that may apply under the law including the California Military Financial Relief Act (Military and Veterans Code Section 800 et seq.).

Questions concerning the Military and Veterans Code can be directed to Lieutenant Colonel Michael N. Wells of the California Military Department at (916) 854-3705.